

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA
7575 METROPOLITAN DRIVE, SUITE 103
SAN DIEGO, CA 92108-4402
(619) 767-2370



WED 17B

November 15, 2001

TO: COMMISSIONERS AND INTERESTED PERSONS

FROM: DEBORAH N. LEE, SOUTH COAST DEPUTY DIRECTOR
SHERILYN SARB, DISTRICT MANAGER, SAN DIEGO DISTRICT

SUBJECT: **Staff Recommendation on San Diego Unified Port District Port Master Plan Amendment No. 31 (South Embarcadero Redevelopment 2).** For Commission consideration and possible action at the Meeting of December 11-14, 2001)

SUMMARY OF STAFF RECOMMENDATION:

Staff is recommending that the Commission deny the proposed amendment to the certified Port Master Plan which would allow for the following redevelopment within the area of San Diego's waterfront known as South Embarcadero. The proposed amendment would allow for the construction of a 1000-1200 room Convention Center Hotel Complex and Marina; 250 room Spinnaker Hotel with ancillary hotel facilities, restaurant and retail uses; 5.4 acre Waterfront Park and Plaza; a Water Transit Center; and public promenade within the Campbell Shipyard and Fifth Avenue Landing (R.E. Staite) leaseholds in the South Embarcadero. The subject site is located between the Convention Center and Embarcadero Marina Park South on approx. 27 acres (land and water) previously occupied by the Campbell Shipyard and the R.E. Staite marine construction facility.

The majority of the proposed redevelopment of the South Embarcadero will enhance public access and recreational opportunities in an area where limited public access opportunities currently exist. Additionally, the majority of the proposed redevelopment, while it represents a significant increase in the intensity of use of the area, is designed to preserve existing public views from major coastal access routes such as Harbor Drive and Eighth Ave./Convention Way, and from the Convention Center terraces. This portion of the South Embarcadero is currently underutilized due to the nature of the previous marine-related industrial uses and should be redeveloped to encourage public use of the waterfront which is not visible from Harbor Drive due to the presence of the Convention Center. Additionally, the area inland of the Convention Center and Harbor Drive is the Gaslamp Quarter and the site of the East Village Redevelopment Area, including the potential downtown ballpark. This segment of the waterfront would be within walking distance by many from these popular visitor-serving areas. Thus, improvements designed to encourage general public use of the area is critical to assure conformance with the public access and recreational policies of the Coastal Act.

However, there are three components of the proposed redevelopment program which do not meet the requirements of Chapter 3 of the Coastal Act and must be denied. These include the hotel tower proposed bayward of the public promenade on the Fifth Avenue Landing Hotel leasehold and referred to as the Spinnaker Hotel Tower; and the 8,000 sq.ft. restaurant proposed at the end of the public recreational pier as part of the Convention Center Hotel Complex and Marina. Staff believes approval of a 225 foot high hotel tower on the seaward side of the primary pedestrian shoreline promenade and adjacent to the entrance of South Embarcadero Marina Park South would set an adverse precedent for this scale and nature of development in close proximity to the water's edge. Other existing commercial recreational development in the project vicinity including the Marriott Hotel, Hyatt Hotel and Seaport Village are all located inland of the pedestrian promenade. An exception is the Chart House restaurant which is housed in the historic rowing club and is compatible in scale with the surrounding pedestrian environment. The staff believes the hotel tower will discourage public access and block public views such that this waterfront location will continue to be underutilized by the general public due to its appearance as a private resort.

The third component relates to provision of lower cost visitor and recreational facilities. The proposed redevelopment program would authorize the construction of two large hotel complexes on port tidelands that will not be affordable to or likely be utilized by the majority of the general population. These structures will occupy waterfront tidelands that could be developed to accommodate the general public with such commercial or public recreational uses, such as restaurants, retail shops, affordable hotels and open space. Alternatively, approval of the PMPA would allow this waterfront location to be developed in a manner that is exclusive of the general public and would discourage public access and recreational use of this prime waterfront location. Because the port master plan does not contain any policies to protect, encourage or provide lower cost visitor and recreational facilities or a program to require in-lieu fees or other measures to offset the impact of these higher cost hotels on the provision of more affordable visitor-accommodations. Therefore, staff believes the port master plan amendment should be denied, as submitted.

Another coastal issue raised by the amendment relates to conversion of existing area designated "Marine-Related Industrial" to "Commercial Recreation", "Park/Plaza" and "Promenade", and the existing water area designated "Specialized Berthing" to "Recreational Boat Berthing". Section 30708 gives the highest priority to the use of existing land space within harbors for port purposes such as navigational facilities, shipping industries, and necessary support and access facilities. The Port District has studied the potential future use of the Campbell and Fifth Avenue Landing sites for marine-related industrial use and has concluded that there is no present or foreseeable future demand for use of these parcels for shipping and/or marine terminal. Additionally, the Port District concludes that adequate area exists at both the Tenth Avenue Marine Terminal (TAMT), adjacent to the south of the subject site, and the National City Marine Terminal (NCMT) to meet current and future needs. Additional upland property is being acquired at NCMT to meet the land intensive automobile storage needs in National City.

Many of the existing facilities at the TAMT are currently underutilized or used for purposes other than marine terminal which could be provided elsewhere. The Port concludes the possibility of creating additional land through fill in portions of the bay is cost prohibitive and not necessary to meet marine terminal/shipping needs in the foreseeable future.

Regarding the supply of land area for sale or repair of boats and related equipment, the Port has completed a study which addressed existing boat and boatyard usage and capacity, marina usage and capacity, business outlooks, and existing supply and projected demand for boatyard facilities in San Diego Bay. The studies conclude that existing boat yards for large boats are at or near capacity. The Port has acknowledged that additional land area may be required for boatyards to serve the recreational boating market and has completed a study to address potential sites for a facility capable of handling recreational boats from approx. fifty feet in length up to mega-yachts as large as 200 feet in length and 1,500 tons in weight. The study concludes that there are three sites for a ship/boat repair facility that could be developed at reasonable cost and with minimal impediments to development, and three additional sites with higher cost and greater impediments to development.

Therefore, staff is not taking issue with the conversion of the subject leaseholds from marine-related industrial to allow for the provision of public and commercial recreational facilities designed to draw the public to the waterfront. Due to its location immediately adjacent to Harbor Drive and the Convention Center, recreational use is more compatible with the adjacent land use and is environmentally preferred to marine industrial usage in this location.

Other issues include impacts to biological resources, water quality and traffic which are adequately addressed through mitigation measures identified in the final EIR and the port master plan amendment.

Staff recommends that the Commission find the port master plan amendment, as submitted, inconsistent with the visual resource protection, public access and recreation policies of Chapter 3 and Chapter 8 of the Coastal Act, and recommends denial of the proposed port master plan amendment.

The appropriate motions and resolutions can be found on Page 4. The main findings for denial of the amendment begin on Page 12.

Port Master Plan Amendment Procedure. California Code of Regulations, Title 14, Section 13636 calls for port master plan amendments to be certified in the same manner as provided in Section 30714 of the Coastal Act for certification of port master plans. The Commission, after public hearing, shall certify the plan or portion of the plan and reject any portion of the plan which is not certified. The Commission may not modify the plan as submitted as the condition of certification. Section 13628 of the Regulations

states that, upon the determination of the Executive Director that the master plan amendment and accompanying materials required by Section 13628(a) are sufficient, the master plan amendment shall be deemed submitted to the Commission for purposes of Section 30714 of the Coastal Act. The subject amendment was deemed submitted on June 1, 2001. Within 90 days after this submittal date, the Commission, after public hearing, shall certify or reject the amendment, in whole or in part. If the Commission fails to take action on the amendment submittal within the 90-day period, the proposed amendment is deemed certified. However, on July 19, 2001, the Board of Port Commissioners waived the 90-day time period.

STAFF RECOMMENDATION:

I. PORT MASTER PLAN SUBMITTAL - RESOLUTIONS

Following a public hearing, staff recommends the Commission adopt the following resolution and findings. The appropriate motion to introduce the resolution and a staff recommendation are provided just prior to the resolution.

RESOLUTION I (Resolution to deny certification of Port of San Diego Master Plan Amendment No. 31)

MOTION I

I move that the Commission certify the San Diego Unified Port District Master Plan Amendment No. 31 as submitted by the port.

Staff Recommendation

Staff recommends a **NO** vote. Failure of this motion will result in rejection of the port master plan amendment and adoption of the following resolution and findings. The motion to certify passes only upon an affirmative vote of a majority of the Commissioners present.

Resolution I

Deny Certification of Amendment

The Commission hereby denies certification to San Diego Unified Port District Master Plan Amendment No.31, and finds, for the reasons discussed below, that the amended Port Master Plan does not conform with or carry out the policies of Chapter 3 and Chapter 8 of the Coastal Act. Nor would certification of the amendment meet the requirements of the California Environmental Quality Act, as there are feasible alternatives and mitigation measures that would substantially

lessen the significant adverse impacts on the environment that will result from certification of the amendment.

II. FINDINGS AND DECLARATIONS.

The Commission finds and declares as follows:

A. Previous Commission Action. The Commission certified the San Diego Unified Port District Master Plan on October 14, 1980. The Commission has reviewed thirty amendments since that date.

B. Contents of Port Master Plan Amendments. California Code of Regulations Title 14, Section 13656 calls for port master plan amendments to be certified in the same manner as port master plans. Section 30711 of the Coastal Act states, in part, that a port master plan shall include all the following:

- (1) The proposed uses of land and water areas, where known.
- (2) The proposed design and location of port land areas, water areas, berthing, and navigation ways and systems intended to serve commercial traffic within the area of jurisdiction of the port governing body.
- (3) An estimate of the effect of development on habitat areas and the marine environment, a review of existing water quality, habitat areas, and quantitative and qualitative biological inventories, and proposals to minimize and mitigate any substantial adverse impact.
- (4) Proposed projects listed as appealable in Section 30715 in sufficient detail to be able to determine their consistency with the policies of Chapter 3 (commencing with Section 30200) of this division.
- (5) Provisions for adequate public hearings and public participation in port planning and development decisions.

The Commission finds that the proposed port master plan amendment does not conform with the provisions of Section 30711 of the Coastal Act. The proposed changes in land uses and proposed projects are not outlined in sufficient detail in the port master plan submittal for the Commission to make a determination of the proposed amendment's consistency with the Chapter 3 and Chapter 8 policies of the Coastal Act.

The proposed amendment was the subject of an Environmental Impact Report under the California Environmental Quality Act. The Environmental Impact Report associated with the plan amendment was subject to public review and hearing and was adopted by the Board of Port Commissioners on April 17, 2001 as Resolution #2001-71. A public

hearing on the proposed master plan amendment was held and the amendment was adopted by the Board of Port Commissioners on April 17, 2000 as Resolution # 2001-72.

C. Standard of Review. Section 30700 of the Coastal Act states that Chapter 8 shall govern those portions of the San Diego Unified Port District located within the coastal zone, excluding any wetland, estuary, or existing recreation area indicated in Part IV of the Coastal Plan. The proposed amendment involves changes to both land use designations and water designations. The entire water area under the jurisdiction of the Port of San Diego will have Chapter 3 policies as the standard of review because San Diego Bay is mapped as an estuary and wetland in Part IV of the Coastal Plan, and on the maps adopted by the Commission pursuant to Section 30710 of the Act. See 14 C.C.R. § 13610(b).

In addition, proposed projects listed as appealable in Section 30715 must be consistent with the policies of Chapter 3 of the Coastal Act. The amendment includes text changes and a new project list for two appealable developments including construction of a 1000 to 1200 Convention Center Hotel Complex and Marina on the existing Campbell shipyard leasehold, and construction of a 250 room Fifth Avenue Landing Spinnaker Hotel with meeting rooms, ballroom, restaurants, retail shops on the existing Fifth Avenue Landing leasehold. Chapter 8 of the Coastal Act is the standard of review for the balance of the proposed amendment. No portion of the project site is within the Commission's area of original permit jurisdiction.

D. Description of Proposed Plan Amendment. The proposed port master plan amendment (PMPA) involves changes to the text, land and water use tables and maps, and the project list within the port master plan to allow for redevelopment of the South Embarcadero. The majority of the area affected by this plan amendment is located in the Port District's Centre City Embarcadero Planning District (Planning District 3) just south of the South Embarcadero Redevelopment Program 1 in the City of San Diego. A small portion of the redevelopment area is within the Tenth Avenue Marine Terminal District (Planning District 4). The South Embarcadero Redevelopment Program 2 area is located south and west of the San Diego Convention Center and north of the Tenth Avenue Marine Terminal. San Diego Bay is located to the west. The site is comprised of three land parcels: one is vacant land formerly occupied by the Campbell Shipyard and currently undergoing remediation; the second is leased to R.E. Staite Engineering (Fifth Avenue Landing); and the third is existing Port general services facilities. The project area encompasses a total of approximately 27 acres which includes approx.15 acres of land area and approx.12 acres of water area.

The proposed changes to the land and water use tables reflect a change in the land use designation on 14.1 acres of the project site from "Marine Related Industrial" to "Commercial Recreation", "Park/Plaza", and "Promenade". An existing 2.3 ac. Harbor Services maintenance yard will be removed and that area converted to "Commercial Recreation". Approx. 3.2 acres of water area would be converted from "Specialized Berthing" to "Recreational Boat Berthing" (1.5 ac.) and "Ship Navigation Corridor" (1.7

ac.). Most of the proposed land use changes would occur on the Campbell and Fifth Avenue Landing (R.E. Staite) sites. The remainder of the Tenth Avenue Marine Terminal would remain “Marine Related Industrial”, “Marine Terminal” and “Specialized Berthing” except for the Crosby Street Park site.

The plan amendment would allow for redevelopment of the two major lease areas, i.e. the former Campbell Industries Shipyard with a Convention Center Hotel Complex and Marina, and the R.E. Staite site with a Fifth Avenue Landing Spinnaker Hotel complex and a Water Transit Center. As noted above, the proposed amendment includes a table listing the two hotels and ancillary development as appealable projects as follows:

CONVENTION CENTER HOTEL COMPLEX AND MARINA: Construct 1000 to 1200 room hotel tower, a lobby, ballroom, meeting rooms, retail shops, restaurants, other ancillary uses, above-grade parking structure, marina, piers, pedestrian access, boat access, park/plaza, and landscape improvements.

LANDING HOTEL: Construct 250 room hotel with meeting rooms, ballroom, restaurants, retail shops, other ancillary uses, pedestrian access, with bridge to Convention Center, garage and surface parking spaces, and landscape improvements.

The Water Transit Center is included as a non-appealable project on the proposed project list as follows:

WATER TRANSIT CENTER: Prepare site, construct buildings, piers, pedestrian access and landscape improvements to and along the San Diego Bay shoreline to accommodate water-based transportation including a ferry landing, water taxi access and public boat access.

A number of public park and access improvements designed to give the waterfront a more pedestrian orientation are included in the proposed text changes and incorporated into the Public Access Program dated September 17, 2001 as part of the PMPA. Currently, Eighth Avenue extends west from Harbor Drive, then turns into Convention Way which extends north and west again to become the entry road to the Embarcadero Marina Park South and to provide vehicular access to the existing Chart House restaurant. The park and restaurant are located on a peninsula extending west of the Fifth Avenue Landing hotel site. The subject redevelopment site is proposed to the west and south or bayward of Convention Way and the Convention Center which is located immediately inland across Convention Way to the east.

The proposed PMPA describes bayside improvements to this area which include,

“the continued extension of the pedestrian promenade along the waterfront. Park/Plaza areas of 4.3 acres and 1.1 acres at the shoreline will open views to the waterfront from Convention Way. New and expanded restroom facilities will be

provided in the 5.4 acre combined Park/Plaza area and the Embarcadero Marina Park South. The promenade widths and public plaza areas on the water's edge of the Fifth Avenue Landing site vary in size. The promenade width ranges from 60 feet to 35 feet, of which the first 26 feet adjacent to the water's edge shall remain open and unobstructed for public pedestrian use. A minimum building setback of 35 feet from the water's edge along the entire promenade shall be provided. A 120 foot diameter plaza is located at the center of the Fifth Avenue Landing site. The promenade is extended into the Embarcadero Marina Park South on the south (Chart House) side of the park entry road. The new continuous promenade will be extended along the water's edge of the entire Fifth Avenue Landing and former Campbell Shipyard sites, and will connect to Harbor Drive for complete public pedestrian access throughout the public park/plaza areas of the project vicinity and Convention Center."

To facilitate public access from the Convention Center to the promenade, the plan proposes a public pedestrian bridge linking the Convention Center observation terrace to the proposed public observation terrace of the Spinnaker Hotel tower. The bridge would cross Convention Way and the promenade and link to the plaza and promenade below with a public stairway and elevator to ensure access to persons with disabilities.

Additionally, the plan includes a new section incorporating "Recreational Boat Berthing" and "Specialized Berthing" as water use categories. Although the certified port master plan uses these categories in the water use tables currently, the plan does not contain a description of the types of uses and structures typically associated with such use designations. As proposed, water areas designated "Recreational Boat Berthing" will be used primarily for recreational craft storage and areas designated "Specialized Berthing" are devoted to marine commercial and industrial uses. Water taxis, excursion and ferry craft are uses that are common to both water use designations.

Section 13634 of the Code of Regulations allows for minor, immaterial changes to a port master plan amendment after submission of the plan. On September 17, 2001, the Board of Port Commissioners approved the South Embarcadero Redevelopment Program 2 Public Access Program to be submitted to the Coastal Commission as part of the subject port master plan amendment. Additionally, the Port submitted revised text language to incorporate the mitigation measures from the EIR into the port master plan text. (see letter from Port dated 11/14/01 and revised pages 75,75a and 75b attached). These changes provide more specificity and increase protection of coastal resources, and are not considered a material amendment to the PMPA submittal.

E. Findings for Consistency with Chapter 3/Chapter 8 of the Coastal Act

1. Applicable Policies.

The proposed amendment would result in changes to land use categories and to the specific policies contained in Planning District 3 and 4. In order for the Commission to

certify the proposed master plan amendment, the Commission must determine that the amendment conforms to the following applicable Chapter 3 and Chapter 8 policies of the Act:

Section 30210.

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

Section 30211.

Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

Section 30212.

(a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where:

(1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources,

(2) adequate access exists nearby, or,

[...]

Section 30213.

Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred.

Section 30220

Coastal areas suited for water-oriented recreational activities that cannot readily be provided at inland water areas shall be protected for such uses.

Section 30221

Oceanfront land suitable for recreational use shall be protected for recreational use and development unless present and foreseeable future demand for public or commercial

recreational activities that could be accommodated on the property is already adequately provided for in the area.

Section 30223

Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.

Section 30224

Increased recreational boating use of coastal waters shall be encouraged, in accordance with this division, by developing dry storage areas, increasing public launching facilities, providing additional berthing space in existing harbors, limiting non-water-dependent land uses that congest access corridors and preclude boating support facilities, providing harbors of refuge, and by providing for new boating facilities in natural harbors, new protected water areas, and in areas dredged from dry land for long-term commercial, recreational, scientific, and educational purposes.

Section 30230

Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.

Section 30231

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

Section 30233

(a) The diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes shall be permitted in accordance with other applicable provisions of this division, where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects, and shall be limited to the following:

(1) New or expanded port, energy, and coastal-dependent industrial facilities, including commercial fishing facilities.

(2) Maintaining existing, or restoring previously dredged, depths in existing navigational channels, turning basins, vessel berthing and mooring areas, and boat launching ramps [...]

(4) In open coastal waters, other than wetlands, including streams, estuaries, and lakes, new or expanded boating facilities and the placement of structural pilings for public recreational piers that provide public access and recreational opportunities [...].

(b) Dredging and spoils disposal shall be planned and carried out to avoid significant disruption to marine and wildlife habitats and water circulation. Dredge spoils suitable for beach replenishment should be transported for such purposes to appropriate beaches or into suitable long shore current systems.

[...]

Section 30234

Facilities serving the commercial fishing and recreational boating industries shall be protected and, where feasible, upgraded. Existing commercial fishing and recreational boating harbor space shall not be reduced unless the demand for those facilities no longer exists or adequate substitute space has been provided. Proposed recreational boating facilities shall, where feasible, be designed and located in such a fashion as not to interfere with the needs of the commercial fishing industry.

Section 30234.5

The economic, commercial, and recreational importance of fishing activities shall be recognized and protected.

Section 30235

Revetments, breakwaters, groins, harbor channels, seawalls, cliff retaining walls, and other such construction that alters natural shoreline processes shall be permitted when required to serve coastal-dependent uses or to protect existing structures or public beaches in danger from erosion, and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply. Existing marine structures causing water stagnation contributing to pollution problems and fish kills should be phased out or upgraded where feasible.

Section 30251.

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas....

Section 30252.

The location and amount of new development should maintain and enhance public access to the coast by (1) facilitating the provision or extension of transit service, (2) providing commercial facilities within or adjoining residential development or in other areas that will minimize the use of coastal access roads, (3) providing non-automobile circulation within the development, (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation, (5) assuring the potential for public transit for high intensity uses such as high-rise office buildings.

Section 30708

All port-related developments shall be located, designed, and constructed so as to:

- (a) Minimize substantial adverse environmental impacts.
- (b) Minimize potential traffic conflicts between vessels.
- (c) Give highest priority to the use of existing land space within harbors for port purposes, including, but not limited to, navigational facilities, shipping industries, and necessary support and access facilities.
- (d) Provide for other beneficial uses consistent with the public trust, including, but not limited to, recreation and wildlife habitat uses, to the extent feasible.
- (e) Encourage rail service to port areas and multicompany use of facilities.

Chapter 3 is the standard of review for all appealable projects, all projects in the water and use redesignations applied to water areas. Chapter 8 is the standard of review for the remainder of the amendment.

2. Findings for Denial As Submitted.

The Commission finds the majority of the proposed redevelopment of the South Embarcadero will enhance public access and recreational opportunities in an area where limited public access opportunities currently exist. Additionally, the majority of the proposed redevelopment, while it represents a significant increase in the intensity of use of the area, is designed to preserve existing public views from major coastal access routes such as Harbor Drive, Eighth Ave./Convention Way, and from the Convention Center

terraces. This portion of the South Embarcadero is currently underutilized due to the nature of the previous marine-related industrial uses and should be redeveloped to encourage public use of the waterfront which is not visible from Harbor Drive due to the presence of the Convention Center. Additionally, the area inland of the Convention Center and Harbor Drive is the Gaslamp Quarter and the site of the East Village Redevelopment Area, including the potential downtown ballpark. This segment of the waterfront would be within walking distance by many from these popular visitor-serving areas. Thus, improvements designed to encourage general public use of the area is critical to assure conformance with the public access and recreational policies of the Coastal Act.

However, there are three components of the proposed redevelopment program which do not meet the requirements of Chapter 3 of the Coastal Act and must be denied. These include the hotel tower proposed bayward of the public promenade on the Fifth Avenue Landing Hotel leasehold and referred to as the Spinnaker Hotel Tower; and the 8,000 sq.ft. restaurant proposed at the end of the public recreational pier as part of the Convention Center Hotel and Marina referred to as the Campbell site pier restaurant.

The third component relates to provision of lower cost visitor and recreational facilities. The proposed redevelopment program would authorize the construction of two large hotel complexes on port tidelands that will not be affordable to the majority of the general population. These structures will occupy waterfront tidelands that could be developed to accommodate the general public with such commercial or public recreational uses as restaurants, retail shops, affordable hotels and open space. Alternatively, approval of the PMPA would allow this waterfront location to be developed in a manner that is exclusive of the general public and would discourage public access and recreational use of this prime waterfront location. Because the port master plan does not contain any policies to protect, encourage or provide lower cost visitor and recreational facilities or a program to require in-lieu fees or other measures to offset the impact of these hotels on more affordable visitor accommodations, the port master plan amendment, as proposed, must be denied. The specific findings to support denial of the areas where the plan or proposed development do not meet the requirements of the Coastal Act will follow.

a. Visual and Coastal Access

Section 30251 is applicable to development anticipated within the South Embarcadero and states “the scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas.” In addition, Sections 30210 and 30211 require that maximum access and recreational opportunities shall be provided for all people and that development shall not interfere with the public’s right of access to the sea. Finally, Section 30213 provides

that lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided.

As submitted, the proposed PMPA would allow for development of the following on the Fifth Avenue Landing leasehold (10.88 ac. land/10.58 ac. water). The plan would allow for the

“construction of a 250 room Spinnaker Hotel Tower only to be located on the northwesterly portion of the site and designed to occupy a minimal building footprint in order to maximize the amount of public access and open waterfront parkland. The tower cannot exceed 23 stories in height. This portion of the hotel is located bayward of the public pedestrian promenade which will extend south from the existing promenade to terminate at the Campbell Hotel site. A public pedestrian bridge is proposed to extend from the Convention Center terraces (approx. 42 foot elevation and east of Convention Way) west to a public observation terrace of the Spinnaker Hotel. The bridge will cross Convention Way and the promenade and link to the plaza and promenade with a public stairway and elevator to assure access to persons with disabilities.”

On the remainder of the leasehold inland of the pedestrian promenade, the proposed amendment allows for construction of a ballroom, parking facility and other hotel-related facilities. South of the hotel and parking, the plan proposes construction of a Water Transit Center for harbor excursion boats, water taxis and ferries. The transit center would be located east of the promenade and bayward of Convention Way. A portion of the Waterfront Park and Plaza would also be located on this leasehold south of the transit center.

The roofline of the hotel facilities, ballroom and parking facilities shall not exceed 25 feet above finished grade, not including appurtenant structures and the main hotel tower. However, a geotechnical report may find that there are physical characteristics of the site that may require an increase in height, not to exceed 32 feet. The hotel tower located beyond the promenade will be 200 to 225 ft high.

The entire ground floor and perimeter of the Spinnaker Hotel Tower and the ballroom and related hotel facilities facing the promenade will provide ground-level pedestrian-oriented uses compatible with the commercial recreation land use designation, such as visitor-serving retail shops and restaurants, including outdoor seating to activate the promenade. Minimal lobby space will be permitted in this portion of the hotel on the ground floor. The Spinnaker Hotel Tower shall have an architectural style depicted in the shape of a spinnaker sail, serving as an architectural statement of the waterfront surroundings.

The Commission finds the siting of the hotel tower raises concerns regarding the compatibility of the bulk and scale of the structure with the surrounding pedestrian orientation and the blockage of public views from the Convention Center and along the

promenade. Additionally, the hotel tower in this location would be an adverse precedent for this scale and nature of recreational development in scenic waterfront locations which would exclude a large segment of the general public. Because the Fifth Avenue Landing site is an L-shaped parcel, it has bay frontage along the west side of the north/south portion, and along the south side of the east/west portion. The hotel tower would be located on the east/west oriented portion of the parcel and bayward of the primary shoreline access that will be provided through the extension of the existing pedestrian promenade to the south. A plaza area and extension of the promenade west toward the park is proposed which will separate the hotel tower from the bay along the tower's southern frontage.

The existing public pedestrian promenade parallels the shoreline and is the main coastal pedestrian accessway in the downtown San Diego area. In general, the bayward side of the public pedestrian promenade in the South Embarcadero area consists of low-scale development including the existing Chart House restaurant comprised of the historic San Diego Rowing Club, and the Embarcadero Marina Park South, both west of the proposed hotel tower. The inland side of the promenade is more intensely developed with the Convention Center, restaurants, and high-rise hotels.

Historic and existing use of the Campbell Site and Fifth Avenue Landing as shipyards/industrial use and the Convention Center's presence, as well as its operation, have discouraged public access to this portion of the South Embarcadero. The Embarcadero Marina Park provides the only public recreational opportunities and the Chart House provides the only commercial recreational opportunity in this area. Because the promenade currently terminates north of Convention Way, pedestrian access is only currently provided within a walkway surrounding South Embarcadero Marina Park. The hotel tower would be located adjacent to the south of the narrow access road which currently serves the park and Chart House restaurant. The Commission finds the siting of a hotel tower in this location which would be highly visible from points north, east and south, and would advertise this area as "resort-oriented" to the point that the general public would be discouraged from venturing to this waterfront location or utilizing the adjacent parkland. Extending the public walkway along the southern side of the tower to connect with the walkway around the park does not adequately offset the psychological effect the imposing tower would have on public use of this area.

Currently, this portion of the Embarcadero is underutilized. Therefore, the subject proposal represents the means to create meaningful public access and recreational opportunities in an area of the San Diego Embarcadero where it does not currently exist. The demand for such uses will only increase as the recently opened Convention Center expansion is occupied and the East Village Redevelopment, which may include a ballpark, is completed. The highly popular Gaslamp Quarter is also located within walking distance of the Convention Center. Public access is provided through the Convention Center from Harbor Drive to serve the increasing number of visitors to the restaurants and nightclubs in the Gaslamp Quarter and provide access to the waterfront.

Public views provided along the South Embarcadero portion of North Harbor Drive are significantly impacted due to the presence of the Convention Center. In fact, from Harbor Drive, there is no indication there is a waterfront located beyond the Convention Center. It is acknowledged through the Port's various public access programs that well-placed public access signage is required and the only means to identify to the visiting public the presence of a waterfront in this location. Therefore, it is particularly important that once access is obtained to the waterfront, in this case via Convention Way from Harbor Drive, that the public is encouraged to continue onward by the nature and design of the development immediately adjacent to the water's edge. Toward this goal, the PMPA proposes a waterfront park and plaza at the terminus of Eighth Avenue and along Convention Way within the viewshed from Harbor Drive to provide open views of the bay and proposed marina. The Commission finds this sense of openness should continue in the design and nature of development within the Fifth Avenue Landing leasehold. The Port District should attempt to increase utilization of the existing park, and ensure available parking and adequate support facilities.

The portion of the Fifth Avenue Landing site where the Spinnaker Hotel tower is proposed is located bayward or west of the primary public promenade and proposed plaza in this location. The portion to be developed with the hotel ancillary improvements including ballroom/meeting room, parking garage, surface parking, restaurants and retail would be located inland or east of the main pedestrian promenade. The lower scale development on the inland side of the promenade is appropriate to preserve views and prevent a tunneling or walled-off effect on public use of the promenade. However, the hotel tower on the seaward side of the primary public access is an inappropriate scale because it would create a tunneling effect and a "bottleneck" to access to Embarcadero Marina Park South. The nature of uses proposed on the lower level of the tower, i.e. restaurants and retail with outdoor seating and a pedestrian orientation are appropriate uses for this portion of the leasehold. Such uses could be developed at a lower scale with outdoor plazas and seating areas to open up access to the park and fishing pier located further to the west. Additionally, such uses would offer a variety of low and moderate cost commercial recreational opportunities consistent with Section 30213 of the Act.

The Commission finds the precedent of approving an exclusive hotel in such close proximity to the water's edge is a significant concern. In general, the proposed PMPA would establish a pattern of more intense, higher development on the western (bayward) side of pedestrian promenade which does not exist elsewhere along the shoreline of San Diego Bay. The amendment would allow construction of a new 200 to 225-foot high hotel tower bayward of the primary pedestrian shoreline accessway in this area. The Commission acknowledges the proposed Spinnaker Hotel tower is sited in a manner to have the least impact on views from the Convention Center terraces. Due to the presence of trees within the park to the west, there are currently no bay views when looking directly to the west from the terraces. The open view of the parkland would be replaced by a view of the Spinnaker Hotel tower located across Convention Way.

The hotel tower would interrupt pedestrian views of the park and bay from the existing and extended promenade and proposed plaza. As mitigation for these impacts to public views, the PMPA includes language which would require the hotel to provide an elevated viewing terrace open to the public and connected to a bridge from Convention Center, which would also provide access directly to the promenade. The Commission finds this proposed design is not sufficient to mitigate the impact of the tower on public access and recreational opportunity in this scenic waterfront location. The viewing experience from the terrace would not mitigate the imposing nature of the tower at the pedestrian level and the negative impact on the existing open views of the bay and parkland. While the public viewing terrace would help replace the views lost from the Convention Center terrace, it would not mitigate for the bulk and scale of the hotel tower as viewed from the pedestrian promenade, parkland and the surrounding area.

The Commission finds the presence of the tower would perpetuate the existing perception of private use in this area and discourages rather than encourages public access and recreation. The Embarcadero Marina Park South would continue to be underutilized due to the narrow access road and restriction provided by the presence of the tower. This area would have the appearance of a private resort hotel which would exclude, rather than encourage public use. Alternative development in this location should be restaurant or retail uses with pedestrian orientation to draw other than hotel guests and conventioners to the area.

In summary, the Fifth Avenue Landing Hotel Tower portion of the proposed PMPA would have a significant adverse visual impact in its proposed location and would not encourage public access or provide visitor-serving recreational facilities available to the general public in a prime waterfront location. Adequate offsetting mitigation for these adverse impacts has not been provided. There are a number of potential project alternatives that could avoid or reduce the project impacts.

The Commission finds the remainder of development anticipated in the PMPA, including the siting and design of the Campbell Convention Hotel Complex and Marina, the Water Transit Center, the Waterfront Park and Plaza is consistent with the public access and visual resource protection policies of the Coastal Act. Specifically, the PMPA includes the following language to address development of the Campbell Shipyard leasehold.

“The former shipyard area will be redeveloped with a 1000 to 1200 room Convention Hotel and support facilities including restaurant, retail, meeting space, a 35,000 sq.ft. ballroom, a 20-30 slip marina, and a maximum 2000-car parking facility. The maximum 500 foot high Convention Hotel tower and parking structure shall be located outside and south of the Park Boulevard view corridor and the Eighth Avenue view corridor to maintain public views to the bay from Harbor Drive. The parking structure shall be set back a minimum of 100 feet from Harbor Drive. At least 899 of the 2000 maximum parking spaces in the parking structure shall be provided for Convention Hotel guest use. The remaining parking spaces shall be designated for general public use.

The Convention Hotel shall provide pedestrian access along two major corridors, Eighth Avenue and the extension of the Embarcadero promenade. Landscaped setbacks and/or street-front retail must be provided along these accessways. The Eighth Avenue pedestrian walkway shall be a minimum of 20 feet wide with 12 foot wide planting strips between the Eighth Avenue right-of-way and the pedestrian walkway and a 12 foot wide planting setback between the walkway and the hotel development. Pedestrian-oriented uses compatible with the Commercial Recreation land use designation, such as visitor serving retail shops and restaurants, which may include outdoor seating shall be provided to activate the promenade. Project components shall meet the 20 foot building height for buildings on the promenade, stepping back to 50 feet in height in the development area to create a pedestrian-scaled public environment. A shoreline promenade and landscape improvements will be included in the 35 foot minimum setback of the hotel from the water's edge. The first 26 feet of promenade adjacent to the water's edge shall remain open and unobstructed for public pedestrian use."

Therefore, due to the proposed location of the 4.4 acre public waterfront park and 1.1 ac. public plaza at the terminus of Eighth Avenue, and the setbacks required to protect view corridors from Harbor Drive, the 500 foot high hotel tower will be located on the southern portion of the leasehold so as not to block public views from scenic coastal areas. The proposed parking structure, while massive, will also be setback from Harbor Drive and outside the view corridor in the portion of the leasehold where greatest access will be provided with the least amount of impact on scenic bay views. Additionally, the development within the Campbell leasehold is required to conform to the height limits established in the South Embarcadero Urban Design and Signage Guidelines which limit height to 20 feet for structures adjacent to the promenade. Uses adjacent to the promenade and Eighth Avenue are also required to be street-front retail and restaurants with outdoor seating to activate the promenade. Therefore, the nature of development immediately adjacent to the water's edge will be pedestrian-oriented in scale and use which will draw the general public as well as hotel guests and conventioners to the area.

Other proposed access improvements associated with the Campbell Hotel Complex and Marina include a public recreational pier which will take access from the waterfront plaza, and a "transit-oriented" marina of 20-30 large yacht slips. A restaurant is proposed at the end of the public recreational pier which is not consistent with Section 30233 of the Coastal Act and will be addressed in a later finding. However, the proposed recreational pier and marina are consistent with all public access and recreation policies which require maximum public access, protect coastal areas for water-oriented recreational activities and encourage increased recreational boating use of coastal waters.

Therefore, the Commission finds the majority of the proposed improvements within the South Embarcadero Redevelopment Program 2 meet the requirements of the visual resource protection and public access policies of the Coastal Act. However, the

Spinnaker Hotel tower is not consistent with these policies and, therefore, the PMPA must be denied.

b. Lower-Cost Visitor and Recreational Facilities.

Section 30221 requires that “oceanfront land suitable for recreational use shall be protected for recreational use and development unless present and foreseeable future demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided for in the area.” In addition, as previously stated, Section 30213 requires the provision of lower cost visitor and recreational facilities, where feasible, and that public recreational opportunities are preferred.

The subject South Embarcadero Redevelopment Program 2 provides for construction of two hotels along the San Diego waterfront to serve the San Diego Convention Center and other San Diego visitors. The two hotels would both provide four and five-star visitor destinations. The Port has indicated the average daily room rates for the Campbell hotel as a convention center hotel will be approx. \$161 (2001) and \$190 (2006). The projected average daily rate for the Spinnaker Hotel would be approx. \$223 (2004-2005). Thus, the proposed hotels represent high-cost visitor facilities on filled public tidelands. The room rates of the proposed hotels are prohibitive to a large segment of the general public and, thus, represent an exclusive accommodation.

As such, due to their location on public tidelands, it is extremely important that such facilities be designed to welcome the general public to the associated hotel facilities adjacent to the promenade, such as the restaurants and retail areas and plazas. Also, such high-cost facilities should not be located in areas which should be prime visitor-serving nodes for the general public. Those prime areas, such as the area seaward of the promenade in this particular case, should be reserved for such visitor and recreational facilities that serve a larger segment of the population and should be sited to preserve coastal views.

When exclusive visitor accommodations are located on the waterfront, they occupy area otherwise available for lower cost visitor and recreational facilities. In this particular case, the Port Master Plan currently does not contain any specific policy statements addressing the provision of lower cost visitor and recreational facilities in new development. It also does not contain any policies protecting existing or encouraging new lower cost facilities within Port tidelands. Yet, the Port District is the landlord and primary decision-making authority over all visitor-serving facilities proposed adjacent to San Diego Bay. As such, the Commission finds it is appropriate for the Port Master Plan to include such policies and for the Port District to require provision of lower cost facilities from the Port tenants consistent with Section 30213 and 30221.

In review of coastal development elsewhere in the coastal zone, the Commission has required either the provision of lower cost visitor accommodations within proposed development or allowed for the payment of a fee in-lieu of actual construction of

affordable units (ref. CDP #5-87-675 Marina Del Rey Ritz Carlton; CDP A5-RPV-91-46 Rancho Palos Verdes; CDP #6-92-203 Sport Shinko). These requirements were associated with proposals for new development which precluded development of lower cost facilities. The Marina Del Rey Ritz Carlton and the Sport Shinko developments did not involve loss of existing affordable recreational opportunities. Such fees are used for land acquisition, construction and/or to subsidize the provision of lower cost visitor-serving accommodations within a high-cost facility or off-site in the project vicinity. Provision of low-cost accommodations through the San Diego Hostel Program and/or campgrounds on public tidelands would also be a suitable means to offset the impact of high-cost hotels on public tidelands otherwise available to serve a larger segment of the population with lower cost visitor facilities.

Commission staff has suggested that the following language be incorporated into the Port Master Plan to address this issue:

Add as new policy statement under Goal IV on Page 11:

Protect, encourage, and, where feasible, provide lower cost visitor and recreational facilities. Developments providing public recreational opportunities are preferred.

Add the following policy statements to be applicable to development within Planning District 3 Centre City/Embarcadero:

New hotel/motel development within Port tidelands should, where feasible, provide a range of rooms and room prices in order to serve all income ranges. Any removal or conversion of existing lower cost visitor-serving accommodations or uses shall be mitigated by the provision of comparable visitor-serving opportunities within the proposed development or documentation that either there is a sufficient inventory of lower cost accommodations in the project vicinity, or there is no demand for such uses. An in-lieu fee may be considered as an alternative to the actual provision of affordable visitor accommodations and shall be required as a condition of approval of redevelopment of existing units or new development. The fee shall be sufficient to construct a reasonable percentage of affordable accommodations within the project vicinity based on the number of proposed visitor units. Any fee shall include an adjustment factor for inflation until such units are built.

If the proposed PMPA would provide for low-cost overnight accommodations on the subject site, the Commission would be able to find the amendment provides for the provision of new, lower cost visitor-serving accommodations within Port tidelands consistent with Section 30708(d) which requires all port-related developments to be located, designed and constructed so as to “provide for other beneficial uses consistent

with the public trust, including but not limited to, recreation and wildlife habitat uses, to the extent feasible.” Such a program would also meet the requirements of Section 30213 and 30221. If the Port District can demonstrate that the provision of lower cost overnight accommodations on the site is infeasible, then it should require the construction of lower cost accommodations elsewhere in the Port District. If actual construction is also currently not feasible, the Port District should establish an in-lieu fee program with appropriate safeguards to ensure that low-cost overnight accommodations are adequately provided for in the area in the near future.

To address whether or not sufficient lower cost overnight accommodations are already provided for in the project area, the Port staff has provided a recent inventory of low to moderate cost accommodations in San Diego’s downtown area. The inventory indicates there are no affordable accommodations in the immediate project vicinity. The closest hotel on the inventory, not all of which are low cost, is located approximately five blocks inland of the site. The summary is as follows:

<u>Lodging</u>	<u>Rate</u>	<u># Rooms</u>
1. Wyndam Emerald Plaza Hotel	\$189/209/night	436
2. Westin Horton Plaza	\$169-189/night	450
3. U.S. Grant Hotel	\$189-339/night	280
4. Westgate Hotel	\$155-199/night	223
5. Radisson Hotel Harbor View	\$119/night	333
6. Holiday Inn Harbor View	\$109-129/night	218
7. The Bristol Hotel	\$89/night	102
8. Best Western Bayside Inn	\$99-109/night	122
9. Comfort Inn Downtown	\$79/night	67
10. Quality Suites Harbor View	\$79/night	136
11. Courtyard by Marriott	\$160-219/night	246
12. San Diego Marriott Suites	\$155-310/night	264
13. Ramada Inn & Suites	\$89-129/night	99
14. YMCA – 500 W. Broadway	\$40-50/night	267
15. Downtown Youth Hostel	\$20-27/night	206

In summary, a broader range of the general public would be served by provision of lower cost retail and restaurant uses, affordable hotels, campgrounds or open space than are served by the proposed waterfront hotels. Because more people can afford lower cost, visitor-serving facilities, there is a greater demand for such facilities, particularly close to the water’s edge. Therefore, there is a significant demand for the type of visitor-serving commercial recreational facilities that could be provided on the subject leaseholds. Based on the above analysis and general recreational demand, lower cost visitor accommodations are not adequately provided for in the project area. The subject PMPA proposes two high cost visitor facilities in prime locations where lower cost visitor and recreational facilities could be provided. Absent any provision for offsetting mitigation to address the exclusive nature of the proposed hotels and adverse impact on public

recreational and lower-cost visitor-serving opportunities, the Commission cannot find the proposed port master plan amendment is adequate to meet the requirements of the public access and recreation policies of the Coastal Act.

c. Marine-Related Industrial Use.

The proposed use changes would redesignate approx. 15 acres of land area occupied by the former Campbell Shipyard and R.E. Staite marine construction yard located between the Tenth Avenue Marine Terminal on the south and the Convention Center expansion on the north. The land area would change from “Marine-Related Industry” which pursuant to the Port Master Plan includes ship building and repair, storage and maintenance of marine machinery and construction equipment and marine related support and transportation facilities. The water use classification is “Specialized Berthing” which is the water use classification that corresponds to the marine-related industry classification. The water area has a typical depth of 20 to 25 feet or less. A portion of the water area would be changed to “Recreation Boat Berthing” to accommodate the proposed recreational marina. The purpose of the port master plan amendment would be to allow the Campbell Industries site and the Fifth Avenue Landing site to be developed with a hotel and related facilities including restaurants and retail facilities.

The following sections of Chapter 8 of the Coastal Act are applicable to the potential change in land use designation from “Marine-Related Industrial” to “Commercial Recreation”, and change in water use designation from “Specialized Berthing” to “Recreational Boat Berthing”. Section 30708(c) gives the highest priority to the use of existing land space within harbors for port purposes, such as navigational facilities, shipping industries, and necessary support and access facilities. Section 30708(d) provides for the accommodation, to the extent possible, of other public trust uses such as recreation and wildlife habitat. Section 30708(d) requires all port-related development to minimize significant adverse environmental effects. All three of the above policies should be considered along with the underlying objectives of Sections 30705 and 30706 which are to minimize fill of coastal waters to only that necessary for specific port-related uses and to minimize harmful effects to coastal resources. Therefore, adequate existing land area should be reserved for port-related purposes so as to avoid the need for additional fill of coastal waters to accommodate future demand for such facilities.

The Port District has had the following studies prepared in order to address the issues raised by potential conversion of land and water areas designated for marine industrial uses to other uses of less priority under the Coastal Act.

The Marine Related Land Study - Campbell Industries/Fifth Avenue Landing dated 12/15/97 prepared by Gray, Cary, Ware & Freidenrich examines the current and future demand for identified port purposes and the suitability of the Campbell and Fifth Avenue Landing parcels for those purposes. The identified uses include:

1. Ship Building and Repair

2. Marine Terminal/Shipping
3. Aquaculture
4. Boat and Marine Equipment Sales and Repair
5. Commercial Fishing
6. Fishing Piers
7. Boat Launching Ramps
8. Recreational Marinas
9. Mooring Buoys
10. Navigation
11. Sportfishing and Related Retail Activities
12. Vessel Charter/Water Taxi/Ferries
13. Naval Station
14. Cruise Ships
15. Misc. Marine-related Uses
16. China Ocean Shipping Co.

Due to the site's location immediately adjacent to the Tenth Avenue Marine Terminal and its former use as a shipyard, greater emphasis has been put on analyzing the present and future demand for Ship Building and Repair and Marine Terminal/Shipping within the Port of San Diego, and the need for the Campbell site to meet the demand for these uses.

There are three large ship building and repair facilities within the Port of San Diego including National Steel & Shipbuilding Co. (NASSCO), Southwest Marine, Inc. (SWM) and Continental Maritime of San Diego, Inc. According to the study, there are numerous other smaller shipyards, such as the one located on the subject site, that are dependent on and parallel the fortunes of the larger shipyards. The study indicates the determination of need for the Campbell/Fifth Avenue Landing site for a shipyard pursuant to Section 30708(c) can be adequately addressed by examining the trends of the larger shipyards and the Navy.

San Diego is home port of the United States Navy's Pacific Fleet, and has one of the largest concentrations of U.S. Navy vessels in the country. Consequently, the U.S. Navy is the predominant influence on the ship building and repair industry in San Diego. The study indicates, there is currently little significant construction of new ships for the private sector. Of all the shipyards, only NASSCO is currently engaged in construction of new ships, and approximately 90-95% of new ship construction at NASSCO is for the Navy. Ship repair work is also dominated by work for the Navy.

The study gives several reasons why it is very difficult for San Diego shipyards to compete for either new construction or repair work for the private sector. While there is a distinct advantage in San Diego for Navy construction and repair work, the competition in the private sector is hampered by the cost of labor, insurance costs and regulation in California. Also, the availability of work has decreased with the loss of the tuna fleet. The study indicates private work on west coast shipyards continues at unhealthy levels

and that even the Navy presence has not been able to adequately compensate for the lack of private work. Most of the larger shipyards are operating well below capacity and there is an expectation that the general leveling off or downward trend in overall Navy work in San Diego will continue.

The study identifies the factors which limit the amount of Navy work available to any shipyard occupying the Campbell site to include: a) the property is not large enough to build Navy ships greater than 500 ft. in length which is the size being built today; b) to compete for repair work of Navy vessels on site, longer piers would be required with extensive dredging and interference with navigation to and from the Tenth Avenue Marine Terminal (TAMT); and, c) most Navy contracts are “womb to tomb”, so if the shipyard can’t build the ship, it won’t get the job to repair it. The study also cites conflicts with neighboring land uses, along with the above constraints, to conclude the Campbell/Fifth Avenue Landing site is not physically suitable for a competitive shipyard, and there is no demand now or in the reasonably foreseeable future for a shipyard at the site.

Marine terminal activities and shipping on San Diego Bay are currently located at two facilities owned by the Port District, the Tenth Avenue Marine Terminal (TAMT) in San Diego and the 24th Street Terminal in National City (NCMT). In 1995, the Port retained a consultant team to develop a strategic plan to address the nature of the Port’s maritime business and identify specific opportunities for increasing traffic at the two marine terminals. The study discusses different scenarios based on historical trends and projected forecasts. In attempting to implement the strategic plan, the study indicates the Port has begun an aggressive marketing campaign to increase the Port District’s revenue from the marine terminals and accommodate additional traffic in containerized cargo.

The Campbell Industries portion of the Campbell/Fifth Avenue Landing site borders the northwest boundary of the TAMT. The water element associated with the Campbell Industries parcel adjoins two of the berths serving the TAMT. Therefore, use of the Campbell site to expand the TAMT is an obvious possibility. However, the study concludes that before any additional land is needed for the TAMT, an extraordinary increase in business would be required. The TAMT is presently operating significantly under capacity. Even under the most aggressive scenario, the throughput at the Port District’s two marine terminals is forecast to reach approximately 3 million tons in fiscal year 2015. The projected cargo capacity of the two terminals is calculated to exceed 5 million tons. Additionally, approximately 40 acres of the 60 acres designated as marine related industrial at the TAMT are presently utilized for purposes other than marine terminal, which could be provided elsewhere. Many of the existing facilities are currently underutilized. Therefore, the study concludes there is no present or foreseeable future demand for the use of the Campbell/Fifth Avenue Landing parcels for shipping and/or a marine terminal.

Regarding sale or repair of small boats and equipment, because these uses are not water-dependent, the study concludes there is no shortage of suitable land for such use.

However, boatyards which construct, sell or repair larger boats are water-dependent because such boats cannot be readily transported to a location distant from the waterfront for repair or display. This study indicates a survey of various boatyards in San Diego County indicates that most, if not all, of the boatyards operating on San Diego Bay which specialize in the construction and repair of larger boats are operating, in many cases, at or below 50% of peak capacity. This conclusion is contrary to the findings of a more specific study done to analyze the boat repair market, the America's Cup Harbor Usage Study, which will be discussed later in this report.

Addendum to Marine Related Land Study, dated 2/27/98, prepared by Gray, Cary, Ware & Freidenrich LLP was prepared to address additional issues raised in connection with the original study. Specifically, the addendum addresses the need for additional land at the 24th Street Marine Terminal to accommodate the recent and projected growth in cargo throughput which is occurring. The principal growth area is in the import of automobiles. The study clarifies that this increase in land area needed at the NCMT does not translate to a need for additional land at the TAMT. The import of automobiles at NCMT does not displace other cargo that can be handled at the TAMT, thereby creating the need for additional land at TAMT. Nor can automobile cargo be easily shifted to the TAMT because, among other limitations, it does not have the necessary rail facilities to handle this cargo.

The addendum also dismisses the possibility of creating necessary additional land through filling in portions of the bay as cost prohibitive. Related to this concern, the Port has submitted a separate port master plan amendment which proposes redesignation of a recently-acquired 22 acre parcel upland of the NCMT from "General Industrial" to "Marine-Related Industry" to address this shortage of land area to serve expanding automobile, lumber and other bulk cargo storage and handling (reference PMPA #30 National City Distribution Center also on the Commission's December 2001 agenda).

Second Addendum to Marine Related Land Study, dated 2/27/98, prepared by Port of San Diego Land Use and Planning Department was completed to address the recent increases in the maritime cargo business and to re-evaluate the conclusions of the Study and first Addendum. The second addendum indicates that, as of August 1999, both of the District's marine terminals were operating at higher capacities than previously stated. However, the 96 acre terminal at TAMT is adequate in size to accommodate existing bulk cargoes and container cargoes.

The NCMT with 125 acres is currently (11/99) operating at full capacity with automobile, truck and lumber cargoes. Additional upland property is being acquired at the NCMT to meet the land-intensive automobile storage needs in National City. Marine terminal expansion planned at NCMT includes a wharf extension and acquisition of upland parcels. Filling the bay for marine-related industrial use is not anticipated in the foreseeable future beyond the existing NCMT wharf extension project, nor is it an economically or environmentally viable option for marine terminal expansion. Because NCMT is landlocked by the U.S. Navy property to the north and environmentally

sensitive habitat to the south, acquisition of upland property is the only viable means to meet the expansion needs for automobile cargo. The study concludes land associated with the Campbell Industries/Fifth Avenue Landing parcels is not necessary for marine terminal/shipping uses now or for the foreseeable future.

America's Cup Harbor Usage Study, dated 11/30/99, prepared by M.J. Barney Associates analyzed the boat repair market in San Diego to determine how the dynamics of this market affect the current and projected usage of the immediate land and resources around Shelter Island; and, in particular, America's Cup Harbor. Two general categories of vessels were examined in the study. These included "boats" with tonnage or weight up to 400 tons, and "ships" with weight over 400 tons. The information contained in this study is relevant because the Port has submitted a separate port master plan amendment which proposes to redesignate the existing South Bay Boat Yard (SBBY) from "Marine-Related Industrial" to "Commercial Recreation" thereby allowing for the eventual closure of this facility. The Port's submittal acknowledges the boatyard use may continue to operate until the site is redeveloped to a conforming commercial recreational use.

The study contains numerous statistics addressing existing boat and boatyard usage and capacity, marina usage and capacity, business outlooks, and existing supply and projected demand for boat yard repair facilities in San Diego Bay. There are seven boat yard repair facilities in North and South San Diego Bay. Of these facilities, South Bay Boat Yard and Knight & Carver are considered to be primarily industrial facilities. The Shelter Island boat yards cater primarily to pleasure craft. A reported 4,250 to 4,550 boats are repaired by these boat yards annually.

The following general conclusions resulted from the study: a) Boat yards are now at or near capacity in San Diego. Future growth of 4% to 6% is projected through 2003; growth should remain steady or continue to slightly increase during the following two years to 2005; b) San Diego is now losing profitable boat and ship repair business serving the larger yacht and superyacht market which is expected to continue increasing. This is due to lack of high tonnage lifting capacity over 300 tons, and particularly, the lack of a Syncrolift capable of lifting more than 150 tons; c) San Diego boat yards will continue to fulfill demand in the foreseeable future over the next 10 to 20 years provided upgrades and improvements are made as dictated by market dynamics; d) San Diego is at or near practical capacity for marina slips; e) Boat yards need to be allowed to perform upgrades on current facilities with an easy approval process; f) America's Cup Harbor became a vital asset to the community as a commercial, or working harbor. As such, it has been the lifeline for many boat yards, marine services, sport fishing, commercial fishing and commercial recreation. Its main functions and attributes should not be drastically altered.

Addendum to America's Cup Harbor Usage Study, dated 2/11/00, prepared by M.J. Barney Associates, was prepared to expand comparison information to include two additional boat yards in Oceanside and Mission Bay. This study contains detailed information comparing boat yard operation statistics for all of the boat yards in San

Diego County. Additional conclusions reached in this report include that boat yards will likely reach capacity between 2003 and 2006 provided the world's economic system remains relatively stable. Growth will primarily be generated by the number of new builds entering the market, the refurbishing, extensions and improvements for resold boats, and the maintenance of charter and for sale boats.

South Bay Boat Yard: Preliminary Marine Related Land and Water Study, dated 2/14/00, prepared by the Port of San Diego, contains an analysis of the potential use of the South Bay Boat Yard site for eight uses including:

1. Boat yard uses
2. Shipbuilding, repair and maintenance
3. Marine terminal
4. Aquaculture
5. Commercial and sport fishing
6. Fishing piers
7. Boat launching ramps
8. Passenger ferries and water taxis

Based on the prepared studies, the Port District has concluded that due to parcel size, inadequate water depths to accommodate contemporary vessel sizes, the changed boat and ship building and repair market conditions, and the adjacency to the U.S. Fish and Wildlife Sweetwater Marsh National Wildlife Refuge, the SBBY does not constitute a feasible marine-related industrial site. Additionally, the Port has submitted a separate PMPA #32 which, if approved, would allow the change in land use designation of 15.9 acres of the leasehold occupied by the South Bay Boat Yard from "Marine Related Industrial" to "Commercial Recreation", "Habitat Replacement", and "Promenade", and a change in water use designation of 1.8 acres from "Specialized Berthing" to "Wetlands".

As previously stated, the Port has also submitted a separate PMPA #30 that would redesignate a recently acquired 22 acre upland area adjacent to the historic mean high tide line and the National City Marine Terminal from "General Industrial" to "Marine Related Industry". This site would serve expanding automobile, lumber, and other bulk cargo storage and handling. This acquisition of land suited for marine-related industrial use has been submitted concurrently with the requests to convert land designated for marine-related industrial use on the South Embarcadero and the South Bay Boat Yard to offset that proposed loss of land suited for the high-priority use of Port District property.

Regarding the conversion of land and water area within the two South Embarcadero leaseholds, i.e. the Campbell Shipyard, and the Fifth Avenue Landing, from marine related industrial to commercial recreation uses, the Commission concurs with the Port's findings that adequate area appropriate for marine related industrial uses such as those within the NCMT and the TAMT are adequately provided in the area. Additionally, due to the site's location immediately adjacent to Harbor Drive and the Convention Center, the Commission finds commercial recreational use to be more compatible with the

adjacent land use and environmentally preferred to marine industrial usage in this location. Therefore, the Commission finds the proposed land and water conversion consistent with the applicable Chapter 3 and Chapter 8 policies of the Coastal Act.

d. Public Access Program.

As noted above, numerous Coastal Act policies pertain to the provision of adequate public access to the shoreline. Section 30252 requires the location and amount of new development should maintain and enhance public access to the coast by facilitating the provision or extension of transit service, by providing non-automobile circulation within the development, and by providing adequate parking facilities or substitute means of serving the development with public transportation. When development does not provide adequate parking facilities, or alternative means of non-automobile access, the general public can be precluded from accessing the shoreline. The Port District has submitted the South Embarcadero Redevelopment Program 2 Public Access Program to supplement the PMPA and address how the proposed development will maintain and enhance public access to the coast consistent with the public access and recreation policies of the Coastal Act. The stated purpose of the program is to define and implement “an extensive multi-modal pedestrian, bicyclist, mass-transit and automobile-based system to provide a variety of free and low-cost San Diego Bay waterfront public recreational opportunities for a broad range of individuals and families who reside in the region, as well as visitors. Access facilities will be constructed and maintained to be accessible to persons with disabilities.”

1. Non-automobile Circulation

The public access program contains provisions for many pedestrian-oriented public access improvements including the previously mentioned extension of the Embarcadero Promenade and construction of a new 5.5 acre waterfront open space park which will connect Harbor Drive with existing Embarcadero Marina Park South. These parks will be improved with environmentally sustainable features to enhance family recreation opportunities, and other recreational and access support facilities, such as lighting, paths, fitness course, signs, restrooms, water, telephones, tables, seating, and trash disposal. A minimum of ten public access signs will demarcate public pedestrian access in and around the Convention Center, Harbor Drive and Park Blvd. to the waterfront. The PMPA includes language which indicates the public promenade, waterfront park and plaza and the Embarcadero Marina Park South will be open to general public use at all times. Any temporary special events held in these areas would be subject to a special event permit issued by the Port District. At no time would public access to the sidewalk promenade be fenced screened or blocked off by any structure.

In addition to the pedestrian-oriented improvements, the program includes pedicab service, including designated holding areas, which will be provided in conjunction with

the public recreational, commercial recreational facilities, including the Convention Center. Such service will promote non-automobile circulation between trolley/transit stations and visitor-serving nodes along the waterfront which are too far apart to access on foot. The plan also calls for new bicycle parking spaces and lanes, and trolley and bus stops along Harbor Drive to facilitate non-automobile circulation throughout the area.

A Water Transit Center is proposed on the Fifth Avenue Landing leasehold adjacent to the waterfront park and between to the two proposed hotel developments. The PMPA anticipates provision of an additional water taxi and ferry landing at this location with a dedicated ferry shuttle and water taxi service provided to serve the Convention Center and the proposed and existing hotels and commercial recreational facilities in the project vicinity. The existing dedicated ferry and water taxi service in San Diego Bay would be expanded to link the Convention Center area to the North Embarcadero Coronado Ferry Landing, Glorietta Bay, Shelter Island, Harbor Island, and eventually the San Diego International Airport and South San Diego Bay locations. The plan indicates four different water transportation services are envisioned including an on-call water taxi (\$5 per person), a scheduled shuttle, an airport shuttle and a second Coronado ferry. Costs for the shuttle and ferry are not provided. The submitted access program indicates that, based on empirical data, such a water transportation service would remove 400,000 vehicle trips from the roadway network with a corresponding reduction in parking demand. Other details regarding estimated usage, capacity and service area are attached to the Public Access Program as part of the PMPA submittal.

2. Parking.

The Environmental Impact Report (EIR) for the South Embarcadero Redevelopment Program 2 and the Port Master Plan Amendment contains an analysis of existing parking conditions in the project vicinity and projected parking demand for the proposed Spinnaker Hotel and Campbell Convention Center Hotel Complex and Marina. The report indicates that the Campbell Shipyard and Fifth Avenue Landing sites do not currently provide any existing public parking and the sites are closed to the public. The only public parking available is along Eighth Avenue and in the existing parking lots in the South Embarcadero Marina Park. These lots provide 133 parking spaces and the PMPA indicates, although these spaces were temporarily used for construction parking for the Convention Center expansion, these spaces will be restored and retained for general public (metered) use. Additionally, there is parking to serve the adjacent Chart House restaurant. Additional parking in the vicinity includes 1,950 spaces within the Convention Center parking garage and surface parking in and around the Gaslamp Quarter across Harbor Drive from the project site. These lots are open to the public but require a fee.

The PMPA proposes construction of a 2,000 space public parking garage on the Campbell site and a 198 space parking facility on the Fifth Avenue Landing site. The Port District has adopted specific parking standards for the hotel sites within the South Embarcadero area including the Hyatt Hotel and Expansion and the Marriott Hotel.

These rates were developed based on a parking study for the South Embarcadero area prepared by Wilber Smith Associates (WSA) in September 1995. These standards were utilized and accepted by the Commission for South Embarcadero Redevelopment Program 1 (Hyatt and Seaport Village Expansion). The project will result in a large amount of shared parking and is located in an urban area with high taxi use and other transit opportunities. These standards are based on the operation of nearby hotels and reflect the characteristics of the area. The parking rates are as follows:

Hotel	0.50 space/room
Restaurants	0.13 space/seat
Retail	2.80 space/1000 sq.ft.
Meeting Rooms	1.55 space/1000 sq.ft.
Marina	0.33 space/slip

Based on these standards, the Campbell Hotel complex would require 899 parking spaces to serve, a 1,200 room hotel, 942 restaurant seats, 66,614 sq.ft. of meeting space, 7,481 sq.ft. of retail and 157 boat slips (the approved marina has been reduced to 20-30 yacht slips). The Spinnaker Hotel and associated restaurant and ancillary facilities would require 163 spaces for 240 hotel rooms, 150 restaurant seats and 14,500 sq.ft. of meeting space. As stated, the 2,000 space parking garage taking access off Harbor Drive would serve the parking needs for the Campbell Hotel complex, overflow parking for the Convention Center and general public parking. There would be an excess 1,101 spaces for general public usage. On the Fifth Avenue Landing site, a surface lot taking access off Convention Way would be provided in addition to hotel garage parking to provide a total of 198 parking spaces. A total of 35 excess spaces would be available for general public use beyond the parking required for the hotel and related facilities. The Commission finds this amount of public parking in this area, in connection with the incentives to encourage non-automobile circulation, is sufficient to accommodate both public and commercial recreational parking demand and is, thus, consistent with Section 30252 of the Act.

3. Traffic and Circulation.

As part of the environmental review, a traffic analysis was prepared for the South Embarcadero Redevelopment Program 2 (Linscott, Law & Greenspan, October 19, 2000) to determine and evaluate the traffic impacts on the local circulation system due to the project including a 1,200 room and 240 room hotel and ancillary facilities. The tool utilized to determine the future traffic conditions within the project area was the City of San Diego Traffic Model. The Year 2005 and 2020 forecasted development was inputted into the model along with the proposed roadway network. Added to the model were street network and land use assumptions for South Embarcadero Redevelopment Program 1 (Hyatt Expansion, Seaport Village Expansion), the Lindbergh Field Master Plan, the Ballpark District, and the North Embarcadero Visionary Plan.

In the final EIR, significant impacts to traffic and circulation were identified for the signalized intersections of Harbor Drive/Eighth Avenue/Park Blvd. And Imperial Ave./19th Avenue, and to the unsignalized intersection at 17th Ave./Imperial which would increase intersection delays and decrease level of service in excess of thresholds allowed by the City of San Diego which has jurisdiction over the streets and intersections. Of these, the significant intersection in the Coastal Zone is Harbor Drive/Eighth Ave./Park Blvd. as Harbor Drive is the major coastal access route and first coastal roadway in this area. The final EIR identifies traffic intersection improvements designed to mitigate the project impacts to below a level of significance by the provision of two left turn, two through and one right turn lane on eastbound and westbound Harbor Drive and on northbound Eighth Avenue, and one left turn, one through, one through right turn, and one right turn on southbound Park Blvd. The City of San Diego, the Convention Center and the project proponents would coordinate and share the responsibility for the improvements and the project proponents would contribute a pro rata share of the cost.

Significant impacts to access were identified for the access from the project area to Harbor Drive which may cause stacking and related congestion as vehicles wait in limited space to enter and leave the area. Mitigation measures identified to reduce the impact to below a level of significance include providing access enhancement roadway configurations to Eighth Avenue and Convention Way. Additionally, the applicant is required to participate with the San Diego Convention Center in developing and implementing a Construction Coordination Plan and an Event Coordination and Operation Plan. The details and goals of the traffic management plans are outlined in the final EIR.

Finally, the final EIR identifies a potentially significant impact to the freeway on-ramps at J Street and I-5 southbound, and Imperial Avenue and I-5 northbound. The City of San Diego and/or CALTRANS has jurisdiction over freeway ramps in the project area. The potentially significant impact will be mitigated by the applicant's participation in the freeway deficiency plan preparation and the increase in meter flow rates at these on-ramps. An I-5 freeway corridor study currently being prepared by the San Diego Association of Governments (SANDAG) will address deficiencies on the freeway and its ramps and recommend traffic improvements. These impacts occur outside of the Coastal Zone and are the result of region-wide growth and development. The proposed amendment will not result in unmitigable traffic impacts that will adversely impact public access or recreation in the Coastal Zone.

The submitted Public Access Program indicates the event parking and traffic management plans from the Convention Center Expansion EIR, Downtown Ballpark EIR, and the South Embarcadero Redevelopment Program 2 EIR are required mitigation measures and will be implemented to handle peak parking and traffic demands during events. Therefore, this port master plan amendment can be found consistent with the requirements of Section 30252 and the public access and recreation policies of Chapter 3 and Chapter 8 of the Coastal Act.

e. **Biological Resources/Water Quality.**

Section 30230 and 30231 of the Act protect marine resources and the biological productivity of coastal waters to maintain optimum populations of marine organisms and for the protection of human health. Section 30233 prohibits diking, filling and dredging of open coastal waters and estuaries unless there is no feasible less environmentally-damaging alternative, adequate mitigation is provided, and the diking, filling or dredging activity is for one of the permitted uses identified. Section 30233 (4) would permit fill in open coastal waters for new or expanded boating facilities and the placement of structural pilings for public recreational piers that provide public access and recreational opportunities.

In-water activities associated with implementation of the South Embarcadero Redevelopment Program 2 include construction of new piers associated with the proposed ferry and water taxi landings at the Water Transit Center, construction of a 20-30 slip large yacht recreational marina and construction of a public recreational pier containing an 8,000 sq.ft. restaurant. Demolition and reconstruction of portions of the existing bulkhead/wharf structure is also anticipated to facilitate construction of the pedestrian promenade and above mentioned improvements. The EIR indicates that previously existing coverage for in-water structures at the Campbell Shipyard for buildings, launchways, piers, aprons, wharfs and floating dry docks totalled 213, 386 sq.ft. all of which will be removed. The EIR anticipates a total of 132,525 sq.ft. of replacement structures, however, that number is based on the larger marina than what was approved by the Port. Therefore, the PMPA proposes a net decrease in water coverage from that which previously existed within the subject leaseholds.

The PMPA includes language which indicates “the amount of water coverage in Subarea 36, Convention Way Basin, resulting from redevelopment of the bulkhead and pier structure shall be minimized and necessary to construct the public promenade, water transit center, public access piers and recreational marina. Any increase in water coverage from that which previously existed when the leaseholds were developed with the Campbell Shipyard and R.E. Staite marine construction yard shall be subject to further environmental review and mitigation”. Therefore, if any increase in water coverage is proposed in the future development plan, it must be the minimum amount necessary for a permitted use under Section 30233 and adequate mitigation must be provided.

This finding is not possible for the construction of an 8,000 sq.ft. restaurant at the seaward end of the proposed public recreational pier as part of the in-water improvements associated with the Campbell Convention Hotel Complex and Marina. The pilings necessary to support the public recreational pier are a permitted use in coastal waters; however, the additional pilings necessary to support the restaurant would be inconsistent with Section 30233 (4) and past Commission precedent.

First, although restaurants are a form of commercial recreation and a visitor-serving use, they have not been considered a public access and recreational opportunity for purposes of this section of the Act; and, therefore, the proposed restaurant is not a permitted use in open coastal waters. Additionally, the restaurant would require additional pilings beyond those required for the pier alone, and would result in a shading impact to a greater area of open water. This impact is avoidable because a feasible less environmentally-damaging alternative exists, i.e. locating the restaurant on land. Therefore, the Commission finds the proposed pier restaurant is not consistent with Section 30233 of the Coastal Act, and the Campbell Site Pier Restaurant portion of the proposed Port Master Plan Amendment must be denied.

The final EIR for the project indicates that no dredging activities are proposed in association with the construction of the proposed hotels. Remediation of contaminated soil and groundwater, and removal of hazardous materials and facilities at the Campbell Shipyard property are currently being addressed under a Clean-Up and Abatement Order issued by the Regional Water Quality Control Board. No further dredging other than that associated with the clean-up and abatement process will be required. The EIR states that fulfilling the requirements of the order should adequately mitigate potential significant impacts to public health and safety and to water quality, (e.g., groundwater, San Diego Bay) posed by known contaminated media.

The only potentially significant impact to biological resources identified in the final EIR relates to eelgrass impacts associated with construction activities. It is expected that impacts to eelgrass will result from the Campbell Shipyard remediation activities; however, some eelgrass could still be present when construction activities for the proposed hotel development begin. Therefore, the EIR requires the Port District to consult with the National Marine Fisheries concerning the appropriate steps to take to prevent the loss of existing eelgrass. If preservation of all eelgrass is not possible, mitigation measures detailed in the Southern California Eelgrass Mitigation Policy shall be taken. The policy would require the Port to demonstrate avoidance and minimize impacts, where possible, survey and map the eelgrass, identify a mitigation site, mitigate at a 1.2 to 1 ratio, and monitor the mitigation site for a 5 year period. Such impact avoidance and mitigation requirements are consistent with past Commission precedent regarding such resource impacts.

The project final EIR identifies a potentially significant impact to water quality from runoff from parking areas and indicates it will be reduced below a level of significance by the applicant's preparing a stormwater pollution prevention plan (SWPPP) in accordance with NPDES permit requirements and the Port's Stormwater Management and Discharge Control Ordinance. The SWPPP will address scheduling and treatment of decontamination; source identification of discharge; erosion and sediment control; non-stormwater management; post-construction stormwater management including the use and design of best management practices; waste management and disposal; maintenance, inspection, and repair needed; and, educational training sessions for assigned personnel.

The required pollution prevention plan will address runoff from all impervious surfaces, not only parking lots.

Additionally, the PMPA includes language which indicates “state of the art best management practices will be used in the marina to reduce spills, reduce or prohibit toxic bottom paints, and mandate new pump-out stations. Specific implementation proposals will be evaluated by the San Diego Water Quality Control Board for compliance with all applicable regulations and will include the best management practices required by the Port District Urban Runoff Action Plan and Stormwater Management Ordinance.”

Therefore, the Commission finds adequate mitigation measures have been incorporated into the PMPA to protect the marine environment consistent with Sections 30230, 30231 and 30233 of the Coastal Act. This protection is assured through adherence to the requirements of the final EIR, the RWQCB Clean-up and Abatement Order, NPDES permit and the Port’s Stormwater Management Ordinance. The Commission finds the port master plan amendment to be consistent with the Chapter 3 and Chapter 8 policies of the Coastal Act regarding the protection of biological resources.

F. Consistency with the California Environmental Quality Act (CEQA). As described above, the proposed amendment does have the potential to result in damage to visual resources and public access in the form of individual and cumulative impacts. The proposed amendment was the subject of an Environmental Impact Report under CEQA. The EIR was subject to public review and hearing and was adopted by the Board of Port Commissioners. However, the Commission has found that the Spinnaker Hotel tower and pier restaurant portion of the proposed PMPA #31 cannot be found in conformance with Chapter 3 and Chapter 8 policies of the Coastal Act and that these elements of the proposed amendment will result in significant adverse impacts to the environment of the coastal zone. Therefore, the Commission finds that the Landing hotel tower and pier restaurant part of the amendment are inconsistent with the California Environmental Quality Act.

The remaining portion of the amendment has been found consistent with the visual, biological, and public access and recreation policies of the Coastal Act, and will not cause significant adverse impacts to the environment. Specifically, the remaining portion of the amendment has been found consistent with the public access and recreation, visual resource and biological protection policies of the Coastal Act. There are no feasible alternatives or mitigation measures available which would substantially lessen any significant adverse impact which the amendment might have on the environment. Therefore, the Commission finds that the remaining portion of the amendment is the least environmentally-damaging feasible alternative and can be found consistent with the requirements of the Coastal Act to conform to CEQA.